

On November 17, 2006 appellant, then a 56-year-old supervisory nurse specialist, fell at work and fractured toes in left foot. She underwent an open reduction and internal fixation of the metatarsal joints of the second and third toes on November 29, 2006. The Office accepted appellant's claim on January 31, 2007 for fracture of the metatarsal bones. She returned to

limited duty on January 22, 2007. On June 15, 2007 appellant's attending physician released her to return to full duty. Appellant underwent additional surgery to remove surgical hardware on November 1, 2007. Appellant's physician released her to work with no restrictions on December 21, 2007.

Dr. Lydia Grypma, a Board-certified internist, found that appellant had reached maximum medical improvement on July 25, 2008. She noted appellant's history of injury and two surgeries. Dr. Grypma stated that appellant experienced postoperative cellulitis and developed scar tissue around the peroneal nerve. She noted that electrodiagnostic studies isolated irritation of the left superficial peroneal sensory nerve. Dr. Grypma listed appellant's symptoms of aching in the left lower extremity from the hip to lateral malleolus and numbness over the top of her foot and the lateral fourth and fifth metatarsals. On physical examination, she found that appellant walked with a slight limp favoring her left foot. Dr. Grypma reported 65 degrees of dorsiflexion and 0 degrees of plantar flexion. She applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* to conclude that appellant had 2 percent impairment of the lower extremity due to changes in her gait and 2 percent impairment due to a Grade 3, 30 percent sensory deficit of the superficial peroneal nerve. Dr. Grypma combined her impairment ratings to total six percent impairment of the left lower extremity.

The district medical adviser reviewed Dr. Grypma's report on November 19, 2008 and agreed with her application of the A.M.A., *Guides*.

By decision dated December 4, 2008, the Office granted appellant a schedule award for six percent impairment of the left lower extremity.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulations<sup>2</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>3</sup> Effective February 1, 2001, the Office adopted the fifth edition of the A.M.A., *Guides* as the appropriate edition for all awards issued after that date.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.404 (1999).

<sup>3</sup> *Id.*

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(a) (August 2002).

### ANALYSIS

Appellant submitted a July 25, 2008 report from Dr. Grypma, a Board-certified internist, finding that appellant had reached maximum medical improvement on July 25, 2008. Dr. Grypma noted that electrodiagnostic studies isolated irritation of the left superficial peroneal sensory nerve. On physical examination she found that appellant walked with a slight limp favoring her left foot. Dr. Grypma applied the A.M.A., *Guides* which provide that forefoot deformity due to metatarsal fracture with a loss of weight transfer is two percent impairment of the lower extremity due to fracture of the second and third metatarsals for a total of four percent impairment of the left lower extremity.<sup>5</sup> Regarding impairment to the superficial peroneal nerve, the maximum sensory value of this nerve under Table 17.7e is 5 percent as noted by Dr. Grypma,<sup>6</sup> who multiplied the maximum impairment value of the nerve by the Grade 3 (30) percent sensory deficit of the superficial peroneal nerve<sup>7</sup> for an impairment rating of 2 percent.<sup>8</sup> Dr. Grypma combined her impairment ratings to total six percent impairment of the left lower extremity.<sup>9</sup> The district medical adviser concurred with Dr. Grypma's impairment and rating. There is no evidence of record to support that appellant has more than six percent impairment of her left lower extremity.<sup>10</sup>

### CONCLUSION

The Board finds that appellant has no more than six percent impairment of her left lower extremity for which she received a schedule award.

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<sup>5</sup> A.M.A., *Guides* 547, Table 17-33.

<sup>6</sup> *Id.* at 552, Table 17-37.

<sup>7</sup> *Id.* at 482, Table 16-10; 552.

<sup>8</sup> The policy of the Office is to round the calculated percentage of impairment to the nearest decimal point. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3.b (June 2003).

<sup>9</sup> A.M.A., *Guides* 604, Combined Values Chart.

<sup>10</sup> A schedule award is not payable for a member, function or organ of the body not specified in the Act or in the implementing regulations. As neither the Act nor the regulations provide for the payment of a schedule award for the whole person, no claimant is entitled to such an award. *George E. Williams*, 44 ECAB 530, 533 (1993).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 4, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 17, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board